

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Case No: 23-CR-160(3)(NEB/JFD)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
GREGORY HAMILTON,)
)
Defendant.)

**MOTION FOR
RECONSIDERATION OF
DETENTION**

Defendant Gregory Hamilton, by counsel Bruce D. Nestor of De León & Nestor, LLC, states as follows:

1. On May 5, 2023, a detention hearing was held in this matter before Magistrate Judge Elizabeth Cowan Wright. Defendant temporarily waived his right to a contested detention hearing on the basis that if released from federal custody he would remain detained by the State of Minnesota.
2. At the detention hearing, Defendant, on the record, specifically reserved his right to reopen the detention hearing and request release from federal custody and return to the custody of Minnesota Department of Corrections (MNDOC). The Court informed Defendant that Magistrate Judge John Docherty would deal with issues related to Defendant's pending Motion for Return to State Custody.
3. The Government has now filed documentation that a federal detainer was not filed on Defendant. Defendant is currently in federal custody due to a writ obtained to

temporarily transfer Defendant's physical custody to the United States Marshal for purposes of appearing in these federal proceedings.

4. After determining conditions of release, a "judicial officer may at any time amend the order to impose additional or different conditions of release." 18 USC §3142(c)(3). A detention hearing may be re-opened "at any time before trial if the judicial officer finds that information exists that not known the movant at the time of the hearing and that has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 USC §3142(f)(2). When changed circumstances raise a new issue of law and additional evidence is proffered, a judicial officer has the inherent power to reconsider his own order. United States v. Gallo, 653 F.Supp. 320, 327 (E.D.N.Y. 1986).
5. Defendant seeks to reopen the detention hearing in this matter. Defendant contends that he is entitled to release from federal custody under the Bail Reform Act, 18 USC §3141, et. seq. He conclusively is not a risk of flight because if released from federal custody he will be returned to the custody of MNDOC to serve the balance of a 420 month sentence which is not set to expire until 2044. He is conclusively not a danger to the community because if released from federal custody he will be returned to MNDOC to serve the balance of a 420 month sentence which is not set to expire until 2044.

Dated: May 5, 2023

S/BRUCE D. NESTOR

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